

proposed is below the threshold for 'Small Housing Sites' as set out in Policy HP4.

1.5. Paragraph 204 of the National Planning Policy Framework (2012) states:

Planning obligations should only be sought where they meet all of the following tests:

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development.*

1.6. The requirement of an affordable housing contribution would not meet the above tests set out in national planning policy. The requirement to secure a legal agreement would not be necessary to make the development acceptable in planning terms as the relevant development plan policy (HP4) regarding developer contributions from small sites towards affordable housing would not apply in this instance.

1.7. In summary, the provisions of Policy HP4 of the Sites and Housing Plan do not apply to this proposed development meaning that it would not be necessary to request an affordable housing contribution to be secured through a legal agreement to make the development acceptable in planning terms.

2. Conclusion:

2.1. The requirement for a legal agreement for a contribution towards affordable housing does not meet the tests in national planning policy for the seeking of developer contributions due to the provisions of Policy HP4 of the Sites and Housing not applying to the proposed development in this instance.

2.2. Committee is therefore requested to remove the need for a legal agreement for a contribution towards affordable housing.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 15/03633/FUL

Contact Officer: Matthew Watson

Date: 19th July 2016

1.10. The principle of a dwelling in this location has been accepted. The only outstanding issue relates to the enforceability of parking in the access road. This has now been resolved to Oxfordshire County Highways satisfaction. For these reasons it is considered that the proposal complies with the relevant policies of the Oxford Local Plan 2016, Core Strategy 2026 and Sites and Housing Plan 2026. As such it is recommended that the application is approved.

4. Conditions:

Subject to the following conditions, which have been imposed for the reasons stated:-

1. Development begun within time limit;
2. Develop in accordance with approved plans;
3. Development in accordance with specified materials;
4. Further details on bin storage;
5. Further details on cycle parking;
6. Boundary details before commencement;
7. Ground resurfacing - SUDS compliant;
8. Variation of road traffic order;
9. Bollards;
10. Construction Travel Plan;
11. Street lighting;
12. No additional windows;

5. Principle Policies:

5.1. This application has been assessed against the following policies:

National

National Planning Policy framework 2012 (paragraphs 57, 61, 69, 186-187, 196-197, 203-206);

National Planning Policy Guidance

Oxford City Council's 'Local Plan' 2005 (as amended 2013)

CP.1 - Development proposals;

CP.6 - Efficient use of land and density;

CP.8 - Design development to relate to its context;

CP.10 - Siting development to meet functional needs;

Oxford City Council's 'Core Strategy' 2011

CS9 - Energy and natural resources;

CS18 - Urban design, townscape character and the historic environment;

CS23 - Mix of housing;

Oxford City Council's 'Sites and Housing Plan' 2013

MP1 - Model policy;

HP2 - Accessible and adaptable homes;
HP9 - Design, character and context;
HP10 - Developing on residential gardens;
HP11 - Low Carbon Homes;
HP12 - Indoor space;
HP13 - Outdoor space;
HP14 - Privacy and daylight;
HP15 - Residential cycle parking;
HP16 - Residential car parking;

Oxford City Council's Supplementary Planning Documents

High Quality Design 2015;
Affordable Housing and Planning Obligations 2013;
Balance of Dwellings 2008;

Oxford City Council's Technical Advice Notes

Accessible Homes 2013;
Energy Statements 2013;
Waste Bins 2014;

- 5.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan and relevant supplementary documents unless material considerations indicate otherwise.

6. Relevant Site History:

- 6.1. A planning history search exercise has been carried out, one submission is considered of material relevance with this application, and this summarised below:
- 112/03195/FUL - Erection of a two storey extension to 30A Union Street to create a semi-detached dwelling (class C3) – Refused. Dismissed at appeal.

7. Comment:

- 7.1. Eight letters of objection were received during the public consultation period, comments from a material planning perspective are summarised as follows:
- Inadequate access;
 - Too many vehicles using the access road;
 - Neighbours will be negatively impacted during the construction period;
 - Impact on drainage/flooding;
 - The site is cramped;
 - Impact of short term lets;
 - Overshadowing of the gardens of numbers 20 and 21 Princes Street;

- Overbearing impact and loss of privacy for number 21 Princes Street;;
- Inadequate garden area

7.2. East Oxford Community Association, no comment.

7.3. Jeune Street Residents' Association, no comment.

7.4. Oxford Civic Society, objection, comments in part state:

'This proposal constitutes over-development, with inadequate provision for access. Although it is proposed that the development would be 'car free', this does not of course eliminate vehicular traffic generated by the construction, visitors to and the servicing of the property. The property would potentially accommodate 6 persons, generating significant traffic, and the configuration of the cul-de-sac access road would necessitate two trips for each visit. This level of traffic along the narrow access road, together with the parking for deliveries, loading and unloading etc. would have an unacceptable effect on the amenity of the existing properties lining the narrow access road. We would urge refusal of this application.'

8. Consultation:

8.1. Oxford County Council Highway Department, no objection subject to the imposition of condition.

8.2. Environmental Development, no comment.

8.3. Natural England, no comment.

9. Site Description and Surrounding Area:

9.1. In terms of its immediate context, the application site is on the western side of Union Street and relates to the side garden of one of three houses. These houses, along with the proposed site, are accessed from Union Street. The surrounding area is predominantly residential consisting mainly of terraced dwellings although opposite the access to the site is East Oxford Primary School.

10. Proposed Development:

10.1. Permission is sought for the erection of a two storey side extension to number 30a Union Street to create a new, three bedroom dwelling. It is proposed to be a car free development.

11. Main Issues:

11.1. Officers consider that the determining issues with regards to the proposal are as follows;

- Principle;
- Highways;

12. Principle of Development:

12.1. Planning permission for an identical scheme was refused in February 2013. There was one reason for refusal and this related to an unacceptable and dangerous intensification of the access road that could not be controlled by parking controls. This decision was then dismissed at appeal on the same basis.

12.2. Issues relating to design, residential amenity and impact on neighbouring dwellings was assessed at the time of the previous application and considered to be acceptable. When considering the appeal in November 2013 the Inspector considered that the site would be acceptable for car free housing. It is considered that the principle of development in this location is acceptable providing issues relating to highways and parking can be addressed.

13. Highways:

13.1. The only issue to be considered as a result of the previous refusal and dismissal at appeal relates to highways. In his conclusion the Inspector stated:

'In conclusion, whilst the site would be suitable for car free housing, having regard to the criteria contained in policy HP16 of the adopted Sites and Housing Plan 2011-2026, the appellants have failed to provide a suitable and enforceable mechanism for preventing additional vehicular use of the private access road. Such additional use would inevitably follow if the development went ahead and this would be detrimental to highway safety, contrary to policy CP1 of the adopted Local Plan 2001-2016.'

13.2. The main issue therefore is that although the proposed development is to be car free, it is also required that parking restrictions can be enforced.

13.3. Oxfordshire County Highways have made the following comments regarding the highways issues and enforceability.

- It is noted that a restricted parking zone sign has been erected and that the majority of the private access road is subject to parking enforcement.

- There are no objections to car-free development for this proposed dwelling.
- The proposed dwelling is located within the East Oxford Controlled Parking Zone (CPZ) where on-street parking is currently over-subscribed. The applicant is advised that the LHA requests a condition to exclude a dwelling in the location from eligibility for resident and visitor parking permits in order to minimise the impact of this proposal on on-street parking and to encourage car-free development.
- The LHA seeks a condition requiring an improved scheme of bollards or other measures which could include planting to be submitted for review and approval by the Local Highway Authority (LHA), prior to any occupation of the dwelling.
- A Construction Traffic Management Plan is required in light of the proposed developments location;
 - Within close proximity to East Oxford Primary School,
 - Semi-permanent vehicle access restriction on Union Street (adjacent to public car park)
 - The narrow constrained nature of the private access road from which the proposed development would be accessed.

14. Observations:

- 14.1. The development site is located in the corner of Union Street, a narrow unmade private road, where vehicular access is bounded by terrace residential properties.
- 14.2. The proposed dwelling is in a sustainable location to the east of Oxford City Centre, where it is situated in a Transport District Area (TDA) with access to a wide range of shops and facilities and regular bus services to Oxford City Centre. The location of the proposed dwelling provides good opportunities for walking and cycling.'
- 14.3. The access road serving 25 to 31 Union Street (including the application site at 30a) is un-adopted. The East Oxford Residents Parking Zone Traffic Order was introduced in the early 1970s and includes both the adopted and un-adopted sections of Union Street.
- 14.4. The private access road has a gravelled surface which means that it was not possible to place double yellow lines in the normal manner. A recent technical and legal review of the order revealed this anomaly and a suitable sign plate has been provided as recommended by the Dept for Transport and with the agreement of County Highways to allow the restrictions to be enforced without the need for yellow lines. This was erected under contract with the City Council on 19 November 2015. This option was not available at the time the original order was introduced. The sign which reads 'Restricted Parking Zone' replaces the need for double yellow lines.

- 14.5. Prior to the erection of the sign and to ensure the restrictions were still relevant to local need a further consultation was carried out by the applicants earlier in 2015 of those properties likely to be affected. No objections were received in response to the proposal for the introduction of restrictions to prevent parking in the access road.
- 14.6. The imposition of traffic regulation orders on roads which are not adopted public highways is permitted within the provisions of the Road Traffic Regulation Act 1984, which allows their use generally on roads to which the public have (unrestricted) access. The enforcement of made orders under civil enforcement powers applies equally to all such qualifying roads and in Oxford this is vested in the County Council to undertake. This meets the concern of the Inspector at the previous appeal for the highway authority to be able to control any unwanted parking arising from the proposed car free use of the proposed new dwelling.
- 14.7. Oxfordshire County Highways have confirmed that they, or the police, are able to enforce parking on this private access road. Any requests for changes to the current East Oxford Residents Parking Zone Traffic Order, including possible changes to the access road, would be subject to a formal amendment or revocation procedure as prescribed in the Local Authorities' Traffic Order (Procedure) (England) Regulations 2012. This could not take action by someone in isolation with an interest in the ownership of the road. The traffic order amendment process remains entirely within the control of the County Council as the principal Traffic Authority.
- 14.8. The un-adopted section of Union Street has the status of a private carriage road providing access to frontage properties. Despite several public advertisements and searches of Land Registry and other sources during the past ten years by the applicant no title to the ownership of the road has been identified.
- 14.9. Oxfordshire County Highways are satisfied that any parking that takes place in the access road can be enforced against. There is an area of private parking to the front of 30a Union Street. Details of bollards will be required by condition to ensure that parking does not take place to the front of 30a or the new dwelling. The site is within the East Oxford CPZ and permits will be withheld from the new dwelling. A construction management plan will also be required in order to minimise disruption.
- 14.10. There are no objections from Oxfordshire County Highways and the proposal is therefore considered to comply with policy HP16 of the '*Sites and Housing Plan*'.

15. CIL Contribution:

- 5.1 The applicant has agreed to a financial contribution in the form of a Section 106 legal agreement, meeting the requirements for the affordable housing

policy HP4 of the Sites and Housing. A CIL contribution of £9,705.19 shall also be required.

16. Other Matters:

16.1. It is recognised that there have been a number of objections to the scheme from local residents. A number of concerns are not planning matters (for example the use of the property for lets). Apart from the highways issues and impact on the access which has been addressed earlier in this report, it has been previously considered that the dwelling is acceptable and that there will not be any undue harm caused to neighbouring dwellings. There has been no change in planning policy since the Inspector's decision in November 2013. Where appropriate, conditions have been applied in order to protect the privacy of neighbours.

17. Conclusion:

17.1. The principle of a dwelling in this location has been accepted. The only outstanding issue relates to the enforceability of parking in the access road. This has now been resolved to Oxfordshire County Highways satisfaction.

17.2. For these reasons it is considered that the proposal complies with the relevant policies of the Oxford Local Plan 2016, Core Strategy 2026 and Sites and Housing Plan 2026. As such it is recommended that the application is approved.

18. Recommendation:

18.1. Application be approved subject to condition and CIL payment;

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 15/03633/FUL

Contact Officer: Ms. Caroline Longman

Date: 21st March 2016

Appendix 3 – Extract from the Minutes of 25 May 2016 West Area Planning Committee

MINUTES OF THE WEST AREA PLANNING COMMITTEE

Wednesday 25 May 2016

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COUNCILLORS PRESENT: Councillors Upton (Chair), Cook, Coulter, Fooks, Hollingsworth, Pegg, Price, Tidball and Wade.

OFFICERS PRESENT: Michael Morgan (Lawyer), Mehdi Rezaie (Planning Team Leader), Sarah Stevens (Planning Service Transformation Consultant) and Jennifer Thompson (Committee and Members Services Officer)

8. LAND ADJACENT TO 30A UNION ST: 15/03633/FUL

The Committee considered an application for the erection of a 2 storey side extension to No. 30A Union Street to create one 3-bed semi-detached dwellinghouse (Use Class C3); and provision of private amenity space, bin and cycle store on land adjacent to 30A Union Street, Oxford.

The Committee accepted the recommendation of the legal adviser to amend the resolution by removing reference to CIL and inserting reference to a legal agreement to secure an affordable housing contribution.

Mike Rant, representing the applicant, spoke in support of the application and explained how the relevant East Oxford Traffic Regulation Order applied to and impacted on this development.

The Committee decided to modify condition 9 to include a requirement for suitable planting to improve the appearance of the front of the property and reduce the likelihood of this being used as a regular parking space.

The Committee resolved to grant planning permission for application 15/03633/FUL subject to conditions and the prior completion of a legal agreement to secure an appropriate contribution for affordable housing:

1. Development begun within time limit.
2. Develop in accordance with approved plans.

3. Development in accordance with specified materials.
4. Further details on bin storage.
5. Further details on cycle parking.
6. Boundary details before commencement.
7. Ground resurfacing - SUDS compliant.
8. Variation of road traffic order.
9. Bollards (and suitable accompanying planting).
10. Construction Travel Plan.
11. Street lighting.
12. No additional windows.